

## Coast Guard, DHS

## § 4.19-5

### § 4.11-10 Witness fees and allowances.

Witness fees and allowances are paid in accordance with 46 CFR 5.401.

[CGD 79-080, 45 FR 2046, Jan. 10, 1980, as amended by CGD 96-041, 61 FR 50726, Sept. 27, 1996]

### Subpart 4.12—Testimony by Interrogatories and Depositions

#### § 4.12-1 Application, procedure, and admissibility.

(a) Witnesses shall be examined orally, except that for good cause shown, testimony may be taken by deposition upon application of any party in interest or upon the initiative of the investigating officer or Marine Board of Investigation.

(b) Applications to take depositions shall be in writing setting forth the reasons why such deposition should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition. Such application shall be made to an investigating officer or the Marine Board of Investigation prior to or during the course of the proceedings.

(c) The investigating officer or Marine Board of Investigation, shall, upon receipt of the application, if good cause is shown, make and serve upon the parties an order which will specify the name of the witness whose deposition is to be taken, the name and place of the taking of such deposition and shall contain a designation of the officer before whom the witness is to testify. Such deposition may be taken before any officer authorized to administer oaths by the laws of the United States.

(d) The party desiring the deposition may submit a list of interrogatories to be propounded to the absent witness; then the opposite party after he has been allowed a reasonable time for this purpose, may submit a list of cross-interrogatories. If either party objects to any question of the adversary party, the matter shall be presented to the investigating officer or Marine Board of Investigation for a ruling. Upon agreement of the parties on a list of interrogatories and cross-interrogatories (if any) the investigating officer or Ma-

rine Board of Investigation may propound such additional questions as may be necessary to clarify the testimony given by the witness.

(e) The subpoena referred to in subpart F of this subchapter together with the list of interrogatories and cross-interrogatories (if any) shall be forwarded to the officer designated to take such deposition. This officer will cause the subpoena to be served personally on the witness. After service the subpoena shall be endorsed and returned to the investigating officer or Marine Board of Investigation.

(f) When the deposition has been duly executed it shall be returned to the investigating officer or Marine Board of Investigation. As soon as practicable after the receipt of the deposition the investigating officer or Marine Board of Investigation shall present it to the parties for their examination. The investigating officer or Marine Board of Investigation shall rule on the admissibility of the deposition or any part thereof and of any objection offered by either party thereto.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by CGD 96-041, 61 FR 50726, Sept. 27, 1996]

### Subpart 4.13—Availability of Records

#### § 4.13-1 Public availability of records.

Coast Guard records are made available to the public in accordance with 49 CFR part 7.

[CGD 73-43R, 40 FR 13501, Mar. 27, 1975]

### Subpart 4.19—Construction of Regulations and Rules of Evidence

#### § 4.19-1 Construction of regulations.

The regulations in this part shall be liberally construed to insure just, speedy, and inexpensive determination of the issues presented.

#### § 4.19-5 Adherence to rules of evidence.

As hearings under this part are administrative in character, strict adherence to the formal rules of evidence is not imperative. However, in the interest of orderly presentation of the facts

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of a case, the rules of evidence should be observed as closely as possible.

### Subpart 4.21—Computation of Time

#### § 4.21-1 Computation of time.

The time, within which any act, provided by the regulation in this subchapter, or an order of the Marine Board of Investigation is to be done, shall be computed by excluding the first day and including the last unless the last day is Sunday or a legal holiday, in which case the time shall extend to and include the next succeeding day that is not a Sunday or legal holiday: *Provided, however*, That where the time fixed by the regulations in this subchapter or an order of the Board is five days or less all intervening Sundays or legal holidays, other than Saturdays, shall be excluded.

### Subpart 4.23—Evidence of Criminal Liability

#### § 4.23-1 Evidence of criminal liability.

If, as a result of any investigation or other proceeding conducted hereunder, evidence of criminal liability on the part of any licensed officer or certificated person or any other person is found, such evidence shall be referred to the U.S. Attorney General.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

### Subpart 4.40—Coast Guard—National Transportation Safety Board Marine Casualty Investigations

SOURCE: CGD 76-149, 42 FR 61200, Dec. 1, 1977, unless otherwise noted.

#### § 4.40-1 Purpose.

This subpart prescribes the joint regulations of the National Transportation Safety Board and the Coast Guard for the investigation of marine casualties.

[CGD 82-034, 47 FR 45882, Oct. 14, 1982]

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### § 4.40-3 Relationship to Coast Guard marine investigation regulations and procedures.

(a) The Coast Guard's responsibility to investigate marine casualties is not eliminated nor diminished by the regulations in this subpart.

(b) In those instances where the National Transportation Safety Board conducts an investigation in which the Coast Guard also has responsibility under 46 U.S.C. Chapter 63, the proceedings are conducted independently but so as to avoid duplication as much as possible.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

### § 4.40-5 Definitions.

As used in this subpart:

(a) *Act* means title III of Public Law 93-633, the Independent Safety Board Act of 1974, (49 U.S.C. 1131).

(b) *Board* means the National Transportation Safety Board.

(c) *Chairman* means the Chairman of the National Transportation Safety Board.

(d) *Major marine casualty* means a casualty involving a vessel, other than a public vessel, that results in:

(1) The loss of six or more lives;

(2) The loss of a mechanically propelled vessel of 100 or more gross tons;

(3) Property damage initially estimated at \$500,000 or more; or

(4) Serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials.

(e) *Public vessel* means a vessel owned by the United States, except a vessel to which the Act of October 25, 1919, c.82, (41 Stat. 305, 46 U.S.C. 363) applies.

(f) *Vessel of the United States* means a vessel:

(1) Documented or required to be documented under the laws of the United States;

(2) Owned in the United States; or

(3) Owned by a citizen or resident of the United States and not registered under a foreign flag.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]